



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2004 DEC 15 PM 1:20

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2004-0041

IN THE MATTER OF:

GARY HANNON, INDIVIDUALLY,

d/b/a CHIEF MOUNTAIN JUNCTION

P. O. Box 349

Babb, Montana 59411

RESPONDENTS

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

December 15, 2004
DATE

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2004 DEC 15 PM 1:20

IN THE MATTER OF:)

Gary Hannon, Individually,)
d/b/a Chief Mountain Junction)
P.O. Box 349)
Babb, Montana 59411)

Respondent.)

Docket No. CWA-08-2004-0041

FILED
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CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency Region 8 (EPA), and Respondent, Gary Hannon, individually, d/b/a Chief Mountain Junction, hereby consent and agree as follows.

1. On, June 2, 2004, Complainant issued to Respondent an Administrative Complaint alleging certain violations of section 311(j) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(j), as amended by the Oil Pollution Act of 1990.
2. This Consent Agreement shall apply to and be binding upon Respondent, its employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.
3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives right to a hearing, any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consent to the terms of this Consent Agreement.
4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that they are now in compliance with each of the relevant provisions of section 311(j) of the Act, 33 U.S.C. §1321(j).

5. Respondent consents to the payment of a civil penalty in the amount of three thousand seven hundred eighty nine dollars (\$3,789.00).

6. Respondent agrees and consents to the following:

a. After Respondent has received the Final Order in this matter, Respondent shall pay a civil penalty of three thousand seven hundred eighty nine dollars (\$3,789.00) in four payments in accordance with the following schedule:

- 1st payment of \$947.25 is due and must be received by not later than 01/15/05;
- 2nd payment of \$947.25 is due and must be received by not later than 04/15/05;
- 3rd payment of \$947.25 is due and must be received by not later than 07/15/05;
- 4th payment of \$947.25 is due and must be received by not later than 10/15/05;

by sending certified or cashier's checks, payable to "**Oil Spill Liability Trust Fund**," with the docket number and Respondent's name written on the check, to:

Donna K. Inman (8ENF-T)
Technical Enforcement Program
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

b. **Copies of the cashier's or certified checks** shall be sent simultaneously to:

Tina Artemis
Regional Hearing Clerk (8RC)
U. S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

and Brenda L. Morris (8ENF-L)
Legal Enforcement Program
U. S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

7. Respondent further agrees and consents that if Respondent fails to make any of the installment payments on the due date specified Respondent shall:

a. Pay interest of six percent (6%) per annum on any amounts specified in subparagraph 6.a., above, which will begin to accrue from the specified due date;

- b. Pay a handling charge of fifteen dollars (\$15.00) that will be assessed on the 31st day and each 30-day period that any amounts specified in subparagraph 6.a., above, are due and unpaid; and
- c. Pay an additional penalty of six percent (6%) per annum that will be assessed on any amounts due and unpaid if payment is not received within 90 days of the due date.

8. All late payments received by Respondent will be applied first to the charges specified in subparagraphs 7. a.- c., above, and next to any unpaid principal amount.

9. Should Respondent fail to make a timely payment in accordance with the installment schedule referenced above, EPA maintains and reserves sole discretion to require Respondent to pay immediately upon notification to Respondent the full amount of the civil penalty (\$3,789.00) or any portion thereof outstanding plus the handling charge, additional penalty, and interest referenced in subparagraph 7. a. - c., above.

10. The penalty specified in Paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

11. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

In The Matter of: Gary Hannon, d/b/a Chief Mountain
Docket No. CWA-03-2004-0041

13. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8
Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 12/14/04

By: Elisabeth Evans
Elisabeth Evans
Director
Technical Enforcement Program

Date: 12/14/04

By: David Janik
Michael T. Rienc, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 12/15/04

By: Brenda Morris
Brenda L. Morris, Attorney
Legal Enforcement Program

Gary Hannon, Respondent.

Date: 12/19/04

By: Gary Hannon

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **GARY HANNON, INDIVIDUALLY, d/b/a CHIEF MOUNTAIN JUNCTION, DOCKET NO.: CWA-08-2004-0041** was filed with the Regional Hearing Clerk on December 15, 2004.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda L. Morris, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 15, 2004, to:

Mr. Gary Hannon
P. O. Box 349
Babb, Montana 59411

And

Commander – National Pollution Funds Center
U. S. Coast Guard
Finance Center (OGR)
1430 A Kristina Way
Chesapeake, VA 23326

December 15, 2004


Tina Artemis
Regional Hearing Clerk



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